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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/874,070	06/06/2001	Robert Kocher		5657

7590 09/25/2007  
ROBERT W. KOCHER  
4828 3RD STREET NORTH  
ARLINGTON, VA 22203

EXAMINER

PATEL, JAGDISH

ART UNIT	PAPER NUMBER
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3693

MAIL DATE	DELIVERY MODE
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09/25/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/874,070	<b>Applicant(s)</b> ROBERT W. KOCHER	
	<b>Examiner</b> JAGDISH PATEL	<b>Art Unit</b> 3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 13-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. This communication is in response to amendment filed 3/12/2007.

***Response to Amendment***

2. Claims 1-12 have been canceled and new claim 13-26 has been added.

***Response to Arguments***

3. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejections. Not that the applicant's claimed invention is found to be anticipated by the prior art found by the examiner.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 13-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Business Wire article "Market Volatility has Investors Scrambling for New Techniques, Says Stocksystem.com Inc.", Business Wire, April 8, 2000. (Hereafter "Business Wire").

Per claims 13-26 Business Wire teaches a method of electronically trading securities, comprising:

(a) using at least one computer workstation to send commands to a host computer system, and to receive and display security order templates and instructions retrieved from and transmitted to the host computer system,

(system is to be used by investors who operate their computers to monitor their positions)

(b) electronically linking a communications network via the at least one computer workstations to the host computer system,

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(the host computer www.stocksyste.com is connected to the investor's workstation via the Internet)

(c) initiating a securities exchange order comprising instructions to sequentially buy or sell at least one named Security, a quantity of the at least one named security, a limit price or current market price at which an exchange of the at least one named security should be transacted, and a change in price for a follow-on sell transaction, and

(PCA system is programmed to buy low and sell high)

(d) having the host computer system carry out the securities exchange order through a transact to buy or sell the at least one named security and, upon transaction confirmation, reenter a reverse order for the at least one named security at the change in price specified by the initiated securities exchange order, such that the securities exchange order does not require manual reentry.

("It seems that many people are using our system to grind out profit automatically.." and the PCA system is simply programmed to buy low and sell high. Noting that this is iterative trading process, all other features of the claim are inherent in the order processing.)

Regarding claims 15 and 16 Business Wire teaches predetermined incremental amount and variable price and quantity as specified in the instant claims (inherent in "position cost averaging")

Claims 17-20 recite an apparatus that performs the process recited in the method claims 13-16 and are rejected on the same grounds.

Please note that certain feature not explicitly recited in the prior art are inherent to the electronic processing of the security orders. For example, linking the host securities broker I(in this case the entity operating the trading system is a broker-dealer and constitute the host securities broker system) and the trading system must interact with a securities exchange to complete the order.

Regarding claims 21-26 it is asserted that since the Position Cost Averaging stock investing system of Stocksyste.com

### **Claim Rejections - 35 USC § 103**

4. Claims 21-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Business Wire.

Business Wire fails to explicitly teach that the order entering step as including an increase or decrease in the securities predetermined incremental amount and variable price and quantity as specified in the instant claims.

However, official notice is taken that purchasing stock with a predetermined incremental amount, variable price and quantity (e.g. buying or selling x number of shares every DP change in the price of a stock ) investment strategy such as dollar cost averaging is old and well known.

It would have been obvious to one of ordinary skill in the art to implant these features to enable the investor to have better flexibility and control to suit his individual preferences.

All other limitations of claims 21-26 are addressed in the preceding analysis.

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAGDISH PATEL whose telephone number is (571) 272-6748.

The examiner can normally be reached on 800AM-630PM Mon-Tue and Thu.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **KRAMER JAMES A** can be reached on **(571)272-6783**. The fax phone number for the organization where this application or proceeding is assigned is 517-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jagdish N. Patel 

(Primary Examiner, AU 3693)

9/27/07